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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,292	02/19/2004	Ronald H. Banco	BANCO-001A	4289
7663	7590	09/08/2004	EXAMINER	
STETINA BRUNDA GARRED & BRUCKER			SWARTHOUT, BRENT	
75 ENTERPRISE, SUITE 250			ART UNIT	
ALISO VIEJO, CA 92656			PAPER NUMBER	

2636

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/782,292

Applicant(s)

BANCO, RONALD H.

Examiner

Brent A Swarthout

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

Art Unit: 2636

1. This is a continuation of applicant's earlier Application No. 10/008,149. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however, event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,5,7-9,11,12,14,16,17 and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Brassier et al.

Brassier discloses a method of using an inclement weather lighting system for a vehicle comprising observing inclement weather (37, 38 Fig.6), selecting a safety

light switch 191 (col.12, lines 35-37), projecting a fog light 85 to the rear of the vehicle (col.7 Fig.8, Fig.4) to alert following drivers (col.1).

Regarding claim 7, Brassier teaches use of two fog lights (col.5, lines 18-22; col.6, lines 1-7).

Regarding claim 9, Brassier teaches inclusion in a light group (col.6) comprising brake, tail and turn lights (Fig.8).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 2,4,10 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brassier et al.

Brassier discloses an inclement weather rear fog light as set forth above. Since Brassier teaches activating switch to turn fog light on (col.12), it would have been obvious to one of ordinary skill in the art to turn off the fog light when no longer needed.

Regarding claim 4, defining a vehicle inside would have been obvious in view of the defined vehicle of Brassier (Fig. 3).

Regarding claim 10, it would have been obvious to use filaments in lamp 85, to enable production of inexpensive lights.

Regarding claim 15, since Brassier teaches driver activation of fog light switch (col.12), choosing to place switch on dashboard would have been obvious, since this is a standard mounting location for other lights, such as head lights and warning flashers.

6. Claims 3 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brassier et al. in view of Rocca et al.

Rocca teaches desirability of activating fog lamps upon detection of inclement weather (col.10, lines 1-8) and that it is well known in the art to indicate detection of inclement weather by activation of windshield wipers, and to automatically activate exterior lights (col.2, lines 15-24).

It would have been obvious to activate fog lights as taught by Brassier upon wiper activation as taught by Rocca, in order to automatically turn on lights so as to avoid a direct operation by a driver, thus preventing driving distractions.

7. Claims 6 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brassier et al. in view of Leow.


Leow teaches desirability of using vehicle side lighting under adverse lighting conditions of the type where a fog tail light is used (col.1, lines 14-17; lines 28-51).

It would have been obvious to use side lighting as taught by Leow in conjunction with a rear fog light system as disclosed by Brassier, in order that a vehicle could have been more clearly visible to others under low visibility conditions.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brent A Swarthout whose telephone number is 571-272-2979. The examiner can normally be reached on M-F from 6:30 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Hofsass, can be reached on 571-272-2981. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Brent A Swarthout
Examiner
Art Unit 2636

**BRENT A. SWARTHOUT
PRIMARY EXAMINER**